

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)	
)	COMPLAINT NO. R9-2002-0205
KINDER MORGAN ENERGY)	FOR
PARTNERS - SFPP, LP MISSION)	ADMINISTRATIVE CIVIL LIABILITY
VALLEY TERMINAL,)	WITH
TREATMENT SYSTEM)	MANDATORY MINIMUM PENALTIES
)	
NONCOMPLIANCE WITH)	October 24, 2002
<u>ORDER NO. 2001-96</u>)	

KINDER MORGAN ENERGY PARTNERS IS HEREBY GIVEN NOTICE THAT:

1. Kinder Morgan Energy Partners, L.P. o/p SFPP, L.P., as owner of petroleum pipelines and above ground tanks operate and maintain aboveground petroleum storage tanks at the Mission Valley Terminal. Groundwater quality data indicates a release to the subsurface environment from this facility has occurred and has caused a pollution of the waters of the State. Extracted groundwater is treated using air strippers and granular activated carbon filters and is then discharged to Murphy Canyon Creek from this facility. Approximately 170,000 gallons per day of treated water is discharged from this facility.
2. Kinder Morgan Energy Partners is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, California Water Code (CWC), Section 13385 et seq.
3. A public hearing on this matter is tentatively scheduled before the Regional Board on December 11, 2002 at the San Diego Regional Water Quality Control Board Office, located at 9174 Sky Park Court, San Diego. The meeting will begin at 9:00 a.m. At the hearing, Kinder Morgan Energy Partners will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. Additional notice of this public hearing and the hearing procedures will be provided to Kinder Morgan Energy Partners prior to the hearing date with the agenda for the Regional Board meeting on that date.
4. At the hearing, the Regional Board will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

ALLEGATIONS

During the period from January 2002 through June 2002 Kinder Morgan Energy Partners violated Order No. 2001-96, NPDES No. CAG919002, *General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction, Remediation, And Permanent Groundwater Extraction Projects To Surface Waters Within The San Diego Region Except For San Diego Bay*. These violations are due to effluent limit exceedances of total phosphorus, acute toxicity (C. dubia & P. promelas), chronic toxicity (C. dubia, P.

promelas, & S. capricomutun), and manganese as reported in the Discharger Self-Monitoring Reports during this time period.

The following facts are the basis for the alleged violations in this matter:

1. Kinder Morgan Energy Partners – SFPP, LP Mission Valley Terminal Wastewater Treatment System is approved to discharge the effluent from its dewatering project to San Diego River under the provisions of Order No. 2001-96. Table 1 (Attachment 1) summarizes the discharge limitations set forth in Order No. 2001-96 and the violations by Kinder Morgan Energy Partners during the period in question.
2. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation and each additional serious violation in any period of six consecutive months, or, in lieu of the penalty, require the discharger to spend an equal amount for a supplemental environmental project, or to develop a pollution prevention plan.

Two serious violations are assessed \$3,000 per violation, giving a mandatory minimum penalty of \$6,000 for these violations.

3. Water Code Section 13385(i) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
 - Exceeds a waste discharge requirement effluent limitation.
 - Fails to file a report pursuant to Water Code Section 13260.
 - Files an incomplete report pursuant to Water Code Section 13260.
 - Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

The chronic violations of March 18-22, 2002 and March 31, 2002 do not incur a \$3,000 penalty, because there are not three or more violations in the preceding 180-day period. A total of five chronic violations are assessed \$3,000 per violation, giving a mandatory minimum penalty of \$15,000 for these violations.

4. Attachment No. 1 is a summary of the effluent limitations set forth in Order No. 2001-96 and the violations by Kinder Morgan Energy Partners during the January – June 2002 reporting period. As shown in the Table, there is one serious violation of the effluent limitation for Total Phosphorus and six chronic violations of the effluent limitation for Acute and Chronic Toxicity.
5. Attachment No. 2 is a copy of the January – June 2002 monitoring reports.
6. Nine violations are assessed, giving a total of \$21,000 in mandatory minimum penalties for these violations.

PROPOSED CIVIL LIABILITY

Pursuant to Section 13385 (h and i) of the California Water Code, mandatory minimum penalties should be imposed on Kinder Morgan Energy Partners by the Regional Board in the amount of \$21,000, the amount of the mandatory minimum penalty, for the above violations.

Dated this 24th day of October 2002


By: 
JOHN H. ROBERTUS
Executive Office

Table 1. Violation Summary for Kinder Morgan Energy Partners – SFPP, LP Mission Valley Terminal Wastewater Treatment System, January 2002 through June 2002.

<u>Date of Violation</u>	<u>Violation</u>	<u>Permitted Limit</u>	<u>Reported Value</u>	<u>Pollutant Category</u>	<u>Ratio, Reported: Permitted</u>	<u>Serious/ Chronic</u>	<u>Water Code Section 13385</u>	<u>Penalty</u>
Mar. 18-22, 2002	Chronic Toxicity – daily max.	1 TUc	4 TUc	N/A	N/A	Chronic	(i)(1)	---
March 31, 2002	Total Phosphorus daily max.	0.2 mg/L	0.26 mg/L	1	1.3	Chronic	(i)(1)	---
March 31, 2002	Total Phosphorus Average	0.1 mg/L	0.26 mg/L	1	2.6	Serious	(h)(1)	\$3,000
May 6-10, 2002	Monthly Chronic Toxicity – daily max.	1 TUc	4 TUc	N/A	N/A	Chronic	(i)(1)	\$3,000
May 6-10, 2002	Acute Toxicity –Instantaneous	0.59 TUa	1.54 TUa	N/A	N/A	Chronic	(i)(1)	\$3,000
May 20-24, 2002	Chronic Toxicity – daily max.	1 TUc	2 TUc	N/A	N/A	Chronic	(i)(1)	\$3,000
June 3-7, 2002	Chronic Toxicity – daily max.	1 TUc	2 TUc	N/A	N/A	Chronic	(i)(1)	\$3,000
June 11, 2002	Manganese – Non- municipal/Non-potable	0.05 mg/L	2.2 mg/L	2	44	Serious	(h)(1)	\$3,000
June 24-28, 2002	Instantaneous Max. Chronic Toxicity – daily max.	1 TUc	2 TUc	N/A	N/A	Chronic	(i)(1)	\$3,000
Total Penalty:							\$21,000	

* The Chronic violations of March 18-22, 2002 and March 31, 2002 do not incur a penalty of \$3,000, because there are not three or more violations in the preceding 180-day period.

Ratio, Reported: Permitted is used for determining whether a violation is serious or chronic based on the category of the pollutant.